

APPROVED
**EMPIRE TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES**

July 20, 2021

The Empire Township Planning Commission held a regular meeting on Tuesday, July 20, 2021. The meeting was held at the Empire Township Hall.

CALL TO ORDER: Dick Figura, Chair, called the meeting to order at 7:00 p.m.

ROLL CALL:

Members Present: Dick Figura, Larry Krawczak, Micah Deegan, Erik Foged, Duane Shugart.

Members Absent: None

Staff Present: Tim Cypher, Dana Boomer

APPROVAL OF AGENDA: The board briefly discussed the agenda. Figura stated that Paula Figura was not available tonight to discuss broadband. He also stated that he needed to leave after the watershed discussion, and so asked if the PC wanted to continue the Master Plan discussion without him or table that item. **Deegan moved, Shugart seconded to table Master Plan discussion until August. All in favor, motion carried.**

Motion by Foged, second by Shugart to approve the agenda as amended. All in favor, motion carried.

APPROVAL OF MINUTES: Motion by Foged, second by Krawczak to approve the June 15, 2021 Meeting Minutes as presented. All in favor, motion carried.

COMMUNICATIONS: None

PUBLIC COMMENT: None

ZONING ADMINISTRATOR'S REPORT: Acknowledged the receipt of Cypher's monthly reports for June 2021. Cypher briefly summarized his reports. **Motion by Foged, second by Shugart to acknowledge receipt of the June 2021 reports. All in favor, motion carried.**

OLD BUSINESS:

- A. **Watershed Overlay District** – The PC discussed the proposed overlay district. Figura led a brief discussion on conflict of interest. He will be recommending some changes to the PC bylaws regarding conflict of interest, and the PC had consensus to add a conflict of interest line to the monthly agenda. There are three members who own property in the proposed watershed overlay district – it was determined that this did not create a conflict of interest on this issue. The PC then moved on to a discussion of the three remaining places where the PC members had concern with the proposed overlay regulations.

Tony Groves had previously presented thoughts and proposed language amendments (see attached). Groves summarized these and discussed with the PC. He proposes removing confined feedlots and slaughterhouses from the disallowed uses, as those are heavily regulated by other bodies. This would allow all agricultural uses in the proposed overlay. The second issue was the view and vegetative buffer issue, where it was proposed to increase the amount of existing buffers that could be cleared from 20% to 25%. Regarding steep slopes, he proposes adding language that allows the selective

trimming of branches to preserve views, but does not propose increasing the slope percentage that is defined as steep.

Deegan moved, Shugart seconded to remove the prohibitions against slaughterhouses and confined feed lots from the proposed ordinance. Krawczak asked if there were other proposed prohibited uses that are already heavily regulated by the state. Cypher and Groves stated that there were. However, the two being proposed for removal would expose the township to liability from the Right to Farm Act, as agricultural activities. In addition, slaughterhouses and confined feed lots would continue to require Special Use Permits, so would not be an automatic approval. **All in favor, motion carried.**

The PC then discussed the shoreline buffer. Cypher asked whether the 25% continues to be too restrictive, and whether the township would prefer to have stricter standards for what vegetation could be planted, while allowing additional removal of trees to allow/preserve view. Deegan stated that he feels even the 33% clearing allowed by the current ordinance is too restrictive, and that he has heard concerns from township property owners who own undeveloped lots and feel that this restriction will decrease the value of their land because it does not allow them to create a water view on the property. Deegan feels it would be better to allow additional cutting, while simultaneously requiring additional planting of lower vegetation. Cypher brought up concerns regarding erosion with the removal of legacy trees. There are a number of concerns related to this issue. The current ordinance proposal is not specific with regards to whether it is allowed to clear more than 25% and then replant with other native vegetation. The PC discussed extensively to develop language that allows the preservation of views while also preserving native vegetation and minimizing turf grass and open sand. Deegan remains concerned with the restrictiveness of the shoreline buffer provisions. Amended language was proposed for Section D.3:

“No more than 25% of the parcel’s shoreline lot width may be planted in turf grass and/or maintained as open sand. The other 75% of the parcel’s shoreline lot width must be planted in native species. These native species would preferably be a mixture of forbs, shrubs, and trees.”

Amended language was proposed for Section D.5:

“The use of pesticides, herbicides, and fertilizers within 30 feet of the shoreline is prohibited.”

Krawczak moved, Foged seconded to approved the proposed changes to Section D.3 and D.5. Ayes: Krawczak, Foged, Shugart, Figura. Nays: Deegan. Motion carried.

The PC then discussed the steep slope provisions. Groves clarified that these provisions do not affect agricultural uses, and do not prohibit development. Groves proposed adding “The select trimming of branches to afford views is permitted within areas of natural vegetative cover.” The PC extensively discussed whether the 12% slope provision is reasonable, the proposed language addition, and the allowable removal of vegetation. Deegan remains concerned with the restrictiveness of the steep slope provisions.

Shugart moved, Krawczak seconded to approve the proposed language addition, and retain the 12% steep slope provision. Ayes: Krawczak, Foged, Shugart, Figura. Nays: Deegan. Motion carried.

The board and staff then discussed the provisions for low impact development and stormwater run-off. There are provisions to require Soil Erosion permits for all development in this district, and this is a reinforcing provision.

Shugart moved, Krawczak seconded to recommend to the township board that they approve the Glen Lake-Crystal River Watershed Overlay District regulations as amended tonight. Ayes: Krawczak, Foged, Shugart, Figura. Nays: Deegan. Motion carried.

The Township Board will not be able to act upon the proposed Zoning Ordinance change until after the Leelanau County Planning Commission has had 30 days to review the proposed ordinance change.

Deegan moved, Foged seconded to send the Glen Lake-Crystal River Watershed Overlay District regulations as amended tonight to the Leelanau County Planning Commission for review. All in favor, motion carried.

Figura recommended also sending the documentation provided by Groves and Karner regarding the reasons behind the overlay district to both the township board and the LCPC. The PC had consensus to do so.

B. Master Plan Review – Tabled until August by prior motion.

NEW BUSINESS:

A. Pleasure of the Board – Figura stated that the bylaws should be amended to cover recent changes to the OMA and potentially amend some language regarding conflict of interest. He will be bringing potential changes to the PC at a future meeting.

PUBLIC COMMENT: Viktor Theiss, S Dunns Farm Road – He appreciates the effort that the PC has put into the overlay district. He has been involved in protecting the watershed for over 30 years, and thinks that this overlay district will provide major benefits to the township and its population and property owners. Property purchasing, especially around the lakes, is becoming corporatized, and is not necessarily consistent with the values of those who live here and own property here now. The provisions in this ordinance will become very important over time. He is grateful for what the PC is doing. Shugart thanked Theiss for the work that he and others have done already to protect the watershed.

Trisha Denton – Cleveland Township – She seconded what Theiss said, and thanked the PC for their work on the overlay district.

BOARD COMMENT: Micah Deegan – He thinks that the process has gone well, and this is doing something for the future. There are a lot of issues to consider.

Dick Figura – He recently read an article regarding the movement of corporations to take over resort properties in other areas of the country, and making them into commercial rental districts versus residential properties. This is likely to come to this area as well.

ADJOURNMENT: **Motion** by Krawczak to adjourn at 8:52 pm, Deegan seconded. With no objection, Figura adjourned the meeting.

Respectfully Submitted,

Dana Boomer
Recording Secretary

From: Tony Groves <grovesa@progressiveae.com>

Date: Friday, July 16, 2021 at 9:16 AM

To: Richard Figura <rfigura@figuralaw.com>

Cc: Timothy Cypher <tim@allpermits.com>, Rob Karner <rkarner@leelanau.org>, Jim Dutmers <jdutsfarm@gmail.com>

Subject: Glen Lake Watershed Overlay

Dick,

As a follow-up to the June 15, 2021 public hearing on the Watershed Overlay District (WOD), I offer the following suggestions to address issues raised at the hearing:

Agricultural Uses

In Section 3-B Development Requirements of the draft WOD (p. 2), confined feedlots and slaughterhouses are listed as non-permitted uses in the watershed. Given the confined feedlots are permitted under Michigan's Right to Farm statute and the fact that slaughterhouses are regulated under Michigan's Groundwater Protection rules (Part 22), I propose that these two uses be deleted from the listing of non-permitted uses in the WOD.

Shoreline Vegetative Buffer

The loss of natural shoreline vegetation has been found to be a major threat to Michigan's lakes. Section 3-D Development Requirements of the draft WOD requires that a thirty foot wide vegetative buffer be maintained around the lakes and that, within the buffer, not more than 20% of the buffer be cleared (p. 5). To facilitate lake access and unobstructed views, it is proposed that the 20% clearing provision be increased to 25%.

It should be noted that this provision would only apply to existing buffers. If a property does not currently have a shoreline vegetative buffer, the WOD would not require that a buffer be created. The intent of the WOD is to preserve existing vegetative buffers around the lakes.

Steep Slopes

Section 3-I Development Requirements of the draft WOD addresses steep slopes that include all lands in the watershed with a slope of 12% or greater. As currently drafted, the steep slope provisions of the overlay require that natural vegetative cover be maintained over at least 30% of the parcel and that, to the extent practical, natural vegetative cover be maintained along ridge lines and bluff tops. The intent of this provision is to preserve natural vegetative cover along ridge lines and on bluff tops, both of which are prone to excessive erosion if cleared. That being said, some have expressed concern about how this provision would impact views. To address this issue, I suggest that a sentence be added to the steep slope provisions on page 12 of the overlay that reads: The select trimming of branches to afford views is permitted within areas of natural vegetative cover.

Another issue raised at the hearing is the appropriateness of defining steep slopes as 12% or greater. It should be noted that the steep slope provisions of the WOD do not preclude development of steep slopes in the watershed. Rather, the steep slope provisions would help ensure erosion-prone bluff tops and ridgelines are protected. The 12% steep slope standard for Glen Lake is modeled, in part, after the Crystal Lake Watershed Overlay District that has been in play in the townships around Crystal Lake for over 25 years. In the Crystal Lake watershed overlay, development on slopes 12% or greater is required meet design standards related to density, lot cover, and natural vegetative cover. The lot cover and natural vegetative cover requirements on slopes 12% or greater are nearly identical to the draft Glen Lake overlay. The Crystal Lake overlay becomes more restrictive as slopes increase. Overall, the current Crystal Lake steep slope provisions (and the new slope provisions for Crystal Lake under consideration) are much more restrictive than what is being considered for Glen Lake.

I hope this information proves helpful. I have attached a mark-up of the watershed overlay with the proposed changes highlighted. I plan to attend next weeks meeting of the planning commission to help answer any additional questions.

If you have any questions in the interim, please feel free to contact me.

Tony Groves